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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,685	02/03/2002	Aleksandar Susnjar		3106

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CANADA

EXAMINER
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VERBRUGGE, KEVIN

ART UNIT	PAPER NUMBER
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2188

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/683,685	<b>Applicant(s)</b> SUSNJAR, ALEKSANDAR	
	<b>Examiner</b> Kevin Verbrugge	<b>Art Unit</b> 2188	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 03 June 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: the arguments therein are not persuasive.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

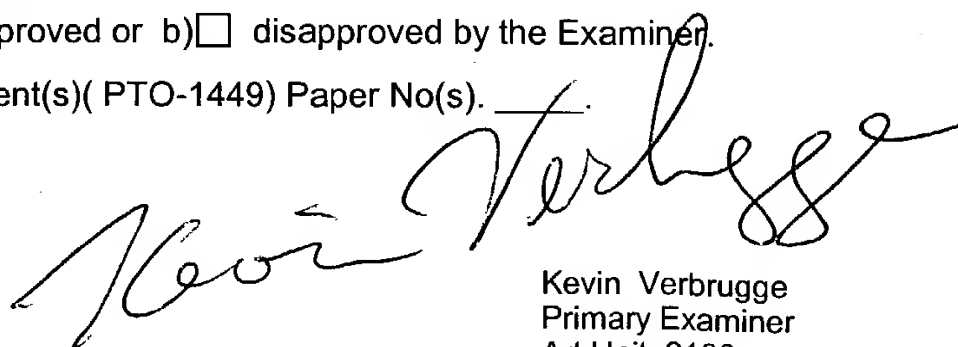
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 16-18.

Claim(s) withdrawn from consideration: 1-15 and 19.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

  
Kevin Verbrugge  
Primary Examiner  
Art Unit: 2188

The Examiner called the Applicant on 8/30/04 to discuss the case and clarify procedures. It was discussed that the Notice of Appeal received on 6/3/04 provides two months' time in which to file an Appeal Brief for free. After 8/3/04, Applicant must purchase an extension of time, up to five months, to file a brief. A brief is for requesting review of the Examiner's rejection of claims 16-18.

These time periods also apply to the filing of an RCE, so after 8/3/04, Applicant must purchase an extension of time, up to five months, to file an RCE.

If Applicant wishes merely to petition the restriction requirement, no additional fee is due since the Notice of Appeal was a bona fide (genuine) attempt to petition the restriction requirement. However, since the Notice of Appeal was not a proper petition, Applicant must send in a separate petition now to successfully petition the restriction requirement.

If Applicant wishes to keep claims 1-19 alive and file an RCE, then the petition regarding the restriction requirement must accompany the RCE along with the proposed amendment to claim 16 removing the word "system" from "hard disk drive system." This amendment would be the "submission" required with an RCE.

If Applicant files an RCE, cancels the current claims, and adds new claims, no petition is necessary or allowed since the restricted claims would cease to exist. In this case, the new claims would be the "submission" required with the RCE. The necessary papers would then include the RCE form, payment of the fee, and the submission consisting of the new claims and the request to cancel claims 1-19.

Applicant is reminded to follow the format in 37 CFR 1.121 for claims:

1-19 (canceled).

20 (new).

etc.